IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

INCOME TAX APPEAL NO. 575 OF 2003

M/s.Orchid Investments — Appellant
vs.
Asst. Commissioner of Income tax
(Inv.),Circle 21(1), Mumbai. — Respondent

Mr.K. Gopal for the appellant.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 25th October 2004

P.C.

Heard Mr.K.Gopal, the learned counsel for the appellant and perused the judgment of the Supreme Court in the case of Commissioner of Income Tax v. Orissa Corporation P. Ltd., 159 ITR 78 relied upon by him.

2. The Tribunal in its order observed thus:

> . "When the addresses given by the assessee were not found to be correct, in view of the fact that the summons issued by R.P.A.D. were returned unserved by the postal authorities, it is the duty of the assessee to furnish correct addresses. Similarly, when the A.O. has examined Mr.D.S.Nagmode and found that he is a man of limited means and could not have advanced an amount of Rs.10,000/- to Shri Kawale, the burden shifts on to the assessee to prove the credit-worthiness of Shri Nagmode. However, the assessee did not choose to discharge the burden placed upon it and merely stated that the A.O. has no jurisdiction to verify the creditor's creditor. In our considered opinion, the claim of the assessee is

contrary to the mandate of sec. 68 of the Act. Under these circumstances, the addition made by the A.O. deserves to be upheld."

3. The consideration of the matter by the Tribunal is concluded on facts.

4. No substantial question of law arises.

5. Appeal is dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)